



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 18 2014

REPLY TO THE ATTENTION OF:
SE-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Saginaw Development LLP
Mr. Richard Menke, Owner
c/o: Scott M. Watson, Esq.
Warner Norcross & Judd LLP
900 Fifth Third Center, 111 Lyon Street, N.W.
Grand Rapids, Michigan 49503

Re: Baker Perkins Superfund Site
1010 Hess Avenue in Saginaw, Saginaw County, Michigan
Site Spill Identification Number: C51X
General Notice of Potential Liability

Dear Mr. Menke:

The U.S. Environmental Protection Agency has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment from Baker Perkins (BP) Superfund Site located at 1010 Hess Avenue in Saginaw, Saginaw County, Michigan, and is planning to spend public funds to control and investigate these releases. This action will be taken by EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §§ 9601-9675 unless EPA determines that such action will be done properly by a responsible party or parties. Responsible parties under CERCLA include the current and former owners and operators of the BP Site, and persons who generated the hazardous substances or were involved in the transport, treatment or disposal of the hazardous substances at the Site. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), where EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the BP Site, including investigation, planning and enforcement costs.

EPA is currently planning to conduct the following actions at the BP Site:

1. Develop and implement a Site Health and Safety Plan, a Site Contingency Plan and an Air Monitoring/Sampling Plan;

2. Establish and implement an ACM debris management plan, including appropriate control mechanisms (e.g. wetting);
3. Secure the perimeter fence, as needed;
4. Inventory and perform hazard characterization on substances contained in drums, totes, and other containers;
5. Inventory and perform sampling to further delineate PCB-contaminated media;
6. Remove and dispose of solid waste to facilitate removal activities;
7. Perform sampling and analysis to determine disposal options;
8. Transport and dispose of all ACM, or identified hazardous substances, pollutants, ACM-impacted wastes, or contaminants at an EPA-approved disposal facility in accordance with U.S. EPA Off-Site Rule (40 CFR § 300.440); and
9. Take any necessary response actions to address any release or threatened release of a hazardous substance, pollutant, or contaminant that EPA determines may pose an imminent and substantial endangerment to the public health or the environment.

EPA has received information that Saginaw Development LLP may have operated at the BP Site or generated or transported hazardous substances that were disposed of at the BP Site. By this letter, EPA notifies Saginaw Development LLP of its potential liability with regard to this matter and encourages it, as a potentially responsible party, to agree to reimburse EPA for costs incurred to date and to voluntarily perform or finance the response activities that EPA has determined or will determine are required at the BP Site. EPA is willing to discuss the entry of an appropriate administrative consent order under which Saginaw Development LLP would perform or finance response activities and reimburse EPA for its costs.

If a consent order cannot be promptly concluded, EPA may issue a unilateral order under Section 106 of CERCLA, requiring Saginaw Development LLP to perform specified work. Under Sections 106 and 107 of CERCLA, Saginaw Development LLP may be liable for reimbursement of EPA's costs, for statutory penalties and for treble damages for noncompliance with such an order. If Saginaw Development LLP is a qualified small business, enclosed is a *U.S. EPA Small Business Resources Information Sheet*, which may be helpful if it is subject to an EPA enforcement action.

Because of the conditions described above, EPA believes that response activities at the BP Site must be initiated as quickly as possible. Therefore, EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

Saginaw Development LLP, as a potentially responsible party, should notify EPA in writing within ten (10) business days of receipt of this letter of Saginaw Development LLP's willingness to perform or finance the activities described above and to reimburse EPA for its costs. The response should be sent to:

Fouad Dababneh, Enforcement Specialist
U.S. Environmental Protection Agency, Region 5
Superfund Division - Enforcement & Compliance Assurance Branch
Enforcement Services Section 2, SE-5J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

If EPA does not receive a timely response, EPA will assume that Saginaw Development LLP does not wish to negotiate a resolution of its potential responsibility in connection with the BP Site and that it has declined any involvement in performing the response activities.

Your response should indicate the appropriate name, address and telephone number for further contact regarding Saginaw Development LLP. If it is already involved in discussions with state or local authorities, engaged in a voluntary cleanup action or involved in a lawsuit regarding the BP Site, activities should continue as the Saginaw Development LLP sees fit. This letter is not intended to advise Saginaw Development LLP, or direct it to restrict or discontinue any such activities already underway; however, Saginaw Development LLP is advised to report the status of those discussions or actions in its response to this letter and to provide a copy of its response to any other parties involved in those discussions or actions.

If you have any legal questions, please call Thomas Turner, Associate Regional Counsel, at (312) 886-6613, e-mail turner.thomas@epa.gov. If there are technical questions about this Site, call Tricia Edwards, On Scene Coordinator at (734) 692-7687, e-mail edwards.tricia@epa.gov.

Due to the nature of the problem at this facility and the attendant legal ramifications, EPA strongly encourages Saginaw Development LLP to submit a written response within the time frame specified herein. We hope you will give this matter your immediate attention.

Sincerely,



Jason El Zein, Chief
Emergency Response Branch 1

Enclosure

U.S. EPA Small Business Resources Information Sheet

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

EPA's Small Business Websites

Small Business Environmental Homepage - www.smallbiz-enviroweb.org

Small Business Gateway - www.epa.gov/smallbusiness

EPA's Small Business Ombudsman - www.epa.gov/sbo or 1-800-368-5888

EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers www.assistancecenters.net

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture
www.epa.gov/agriculture/

Automotive Recycling
www.ecarcenter.org

Automotive Service and Repair
www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing
www.chemalliance.org

Construction
www.cicacenter.org or 1-734-995-4911

Education
www.campuserc.org

Food Processing
www.fpeac.org

Healthcare
www.hercenter.org

Local Government
www.lgean.org

Metal Finishing
www.nmfrc.org

Paints and Coatings
www.paintcenter.org

Printed Wiring Board Manufacturing
www.pwbrc.org

Printing
www.pneac.org

Ports
www.portcompliance.org

**U.S. Border Compliance and
Import/Export Issues**
www.bordercenter.org

**Hotlines, Helplines and
Clearinghouses**
www.epa.gov/epahome/hotline.htm

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Antimicrobial Information Hotline
info-antimicrobial@epa.gov or
1-703-308-6411

**Clean Air Technology Center (CATC)
Info-line**
www.epa.gov/ttn/catc or 1-919-541-0800

**Emergency Planning and Community
Right-To-Know Act**
[www.epa.gov/superfund/resources/
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

**EPA Imported Vehicles and Engines
Public Helpline**
www.epa.gov/otaq/imports or
734-214-4100

National Pesticide Information Center
www.npic.orst.edu/ or 1-800-858-7378

**National Response Center Hotline -
to report oil and hazardous substance spills**
www.nrc.uscg.mil or 1-800-424-8802

**Pollution Prevention Information
Clearinghouse (PPIC)**
www.epa.gov/opptintr/ppic or
1-202-566-0799

Safe Drinking Water Hotline
[www.epa.gov/safewater/hotline/index.
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

Stratospheric Ozone Protection Hotline
www.epa.gov/ozone or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Wetlands Information Helpline

www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

State and Tribal Web-Based Resources

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

EPA's Tribal Compliance Assistance Center

www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

EPA's Tribal Portal

www.epa.gov/tribalportal/

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance-assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at www.sba.gov/ombudsman.

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.